IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.176 OF 2005

Bharti Cellular Limited & Anr. ...Petitioners.

Vs.

The Superintendent of Stamps & Anr...Respondents

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Mr.F.D'Vitre, Sr.Counsel with Mr.P.R.Dhande i/b. D.H. Law & Asso. for the Petitioners.

Mr.K.R.Belosey, A.G.P. for the Respondents.

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CORAM : DR.D.Y.CHANDRACHUD, J.

27th January 2005.

P.C.:

By the impugned order dated 7th January 2005, the Superintendent of Stamps has demanded stamp duty and penalty in the amount of Rs.12,12,22,089/- treating the agreements that were submitted by the Petitioners as being exigible to stamp duty under Article 36 to the First Schedule of the Bombay Stamp Act, 1958. Admittedly no opportunity of being heard was granted to the

Petitioners before the impugned order was passed. In the circumstances, the Learned A.G.P. states on instructions that the impugned order dated 7th January 2005 may be regarded as a notice proposing to classify the document in question as a lease under Article 36 to the First Schedule of the Bombay Stamp Act, 1958. The Petitioners will be at liberty to submit their representation to the aforesaid communication dated 7th January 2005 treating the same as a show cause notice, within a period of two weeks from today. The Superintendent of Stamps shall pass a reasoned order in accordance with law after furnishing to the Petitioners an opportunity of being heard within a period of four weeks thereafter. The Petition is accordingly disposed of in the aforesaid terms.

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